

# ANALYSIS OF ORIGINAL BILL

## Franchise Tax Board

Author: Plescica Analyst: Darrine Distefano Bill Number: AB 2700  
Related Bills: See Legislative History Telephone: 845-6458 Introduced Date: 02-20-2004  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** State Agencies Develop & Implement Plan to Protect Security & Privacy of Computers & Networks from Risks Posed by Peer-to-Peer File Sharing

### SUMMARY

This bill would require state agencies to develop and implement a plan to protect computers and networks from the risks of peer-to-peer file sharing.

### PURPOSE OF THE BILL

It appears that the purpose of this bill is to prevent viruses and unauthorized persons from accessing state agencies' computer systems using peer-to-peer file sharing programs.

### EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative on or after January 1, 2005. State agencies would be required to have a plan in place no later than July 1, 2005.

### POSITION

Pending.

### ANALYSIS

#### FEDERAL/STATE LAW

Each federal agency must implement and maintain a program to adequately secure its information and system assets, consistent with Office of Management and Budget (OMB) policy. Agency programs must: 1) assure that systems and applications operate effectively and provide appropriate confidentiality, integrity, and availability; and 2) protect information commensurate with the level of risk and magnitude of harm resulting from loss, misuse, unauthorized access, or modification.

The Department of Finance (DOF) has the broad responsibility and authority to guide the application of information technology in California State Government. DOF, along with the Department of General Services, provides standards and guidelines for information technology operations and security for state agencies. Each state agency must provide for the integrity and security of its automated files and databases by: 1) identifying all automated files and data bases for which the agency has ownership responsibility; and 2) ensuring that responsibility for each automated file or data base is defined.

#### Board Position:

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#### Department Director

#### Date

Gerald H. Goldberg

4/28/2004

Currently, no state law exists that prohibits or restricts the use of peer-to-peer file sharing. Peer-to-peer file-sharing programs enable direct communication between users, computers, and networks. These programs are decentralized applications that use the Internet to connect computers to one another. Peer-to-peer file trading networks allow users to access each other's files and share information such as digital music, images, and video to and from personal computers without using a centralized server to store the information. Programs that use this type of peer-to-peer file swapping include Kazaa, iMesh, Ares, eDonkey, BearShare, Morpheus, LimeWire, and others. These programs allow other users to download copyrighted files off of a computer with or without the authorization of the user. Other programs such as instant messaging allow users to have a conversation in real time.

Franchise Tax Board (FTB) is in the process of drafting policy to prohibit the use of peer-to-peer technology unless specifically approved by FTB's Information Security Officer. Currently, FTB inspects and monitors network traffic to detect peer-to-peer communications. If this communication is found, appropriate action is taken to stop network traffic. Also, FTB performs software compliance audits within the department. If unauthorized software is found, such as a peer-to-peer client, a process is in place to remove the software.

### THIS BILL

In this bill, the Legislature finds and declares that peer-to-peer file sharing poses a security and privacy threat to computers and networks by acting as a point of entry for viruses and other malicious programs. This bill encourages state agencies to take prompt action to address the security and privacy risks posed by peer-to-peer file sharing.

This bill defines peer-to-peer file sharing as software the primary function of which is to designate files for transmission from one computer to another directly or by request. This term does not include software for file sharing between, among, or within federal, state, or local government agencies.

This bill would require each state agency to develop and implement a plan to protect the security and privacy of computers and networks from the risks posed by peer-to-peer file sharing no later than July 1, 2005. The plan would include the use of information technology software and hardware, employer policies, user training, and other technological and non-technological methods.

This bill would require a state agency to submit its plan to the chief information officer of the Department of General Services. The plan would be reviewed and revised as necessary.

### IMPLEMENTATION CONSIDERATIONS

This bill defines the term "peer-to-peer file sharing" as the transmission of files from one computer to another, it is not clear if this includes the instant messaging technology, i.e., AOL Instant Messenger (AIM) since this technology is also considered peer-to-peer file sharing. The author may wish to identify specific types of technology or amend the term to include instant messaging technology.

The department currently monitors and inspects network traffic and performs software audits with regard to peer-to-peer file sharing. In addition to this, the department is in the process of implementing a file sharing policy. Therefore, implementing this bill would not significantly impact the department's programs or operations.

## **LEGISLATIVE HISTORY**

SB 403 (Florez, 2003/2004) would have created the Information Technology Act of 2003, the Office of the State Chief Information Officer, and the Information Technology Board, and made various changes to the current responsibilities of a director of a state agency for information technology. This bill was amended on March 18, 2004, to delete the provisions relating to the Information Technology Act of 2003 and added provisions to prohibit a public water system from filing an action to recover MTBE remediation or recovery costs. This bill is currently in the Assembly Rules Committee.

SB 843 (Polanco, 1999/2000) would have enacted the Information Technology Management Act of 1999. This bill would have established specific policies for state agencies to follow and would have provided for the establishment of a Chief Information Officer's Council as the principal interagency forum to improve state agency practices relating to the use of information technology. This bill failed to pass out of the Senate.

## **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

## **ECONOMIC IMPACT**

This bill would not impact the state's income tax revenue.

## **LEGISLATIVE STAFF CONTACT**

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